

Case 6:18-cv-03155-BP Document 12 Filed 06/08/18 Page 1 of 4

6. Although not required by the Federal Rules of Civil Procedure, other than the initial Notice of Removal, Defendants provided no courtesy copy of the pleadings mentioned above to Plaintiff's counsel.

7. By honest mistake, Plaintiff's counsel was thus unaware of Defendants' Motion and this Court's related Order that Plaintiff respond to the motion or before June 5, 2018.

8. On June 8, 2018, this Court entered an Order to Show Cause as to why Defendants' Motion to Dismiss should not be granted.

9. But for counsel's honest mistake, the Motion for Extension of Time filed by Plaintiff in conjunction with this Showing of Cause would have been filed by Plaintiff prior to the time for a response to Defendants' Motion as ordered by the Court, or alternatively, in the event Plaintiff's Motion was denied, Plaintiff would have responded to Defendant's Motion as ordered by the Court.

10. Pursuant to 28 U.S.C. § 1447, the time for Plaintiff to move this Court for an order remanding the case to the Circuit Court of Taney County, Missouri has not yet elapsed.

11. Defendants' Motion to Dismiss is thus premature and not ripe for adjudication because the propriety of removal to Federal Court has not been litigated or determined.

12. As will be set forth more fully in Plaintiff's forthcoming Motion for Remand, the amount in controversy does not meet the jurisdictional parameters for diversity jurisdiction, and thus, this Court lacks subject matter jurisdiction in this case.

13. Until Plaintiff's time to file a Motion for Remand has elapsed, or in the event a Motion for Remand is filed, which Plaintiff hereby represents will be forthcoming within the timeframe provided for by law, and ruled upon by this Court, requiring Plaintiff to respond to Defendants' pre-mature Motion to Dismiss is unwarranted and unfairly prejudicial to Plaintiff.

14. Until the issue of this Court's subject matter jurisdiction is resolved, litigating the merits of Defendants' Motion to Dismiss is unwarranted and unfairly prejudicial to Plaintiff.

15. Plaintiff has meritorious defenses to the relief requested by Defendants in the Motion to Dismiss, and Plaintiff would have filed a response to that Motion as ordered by the Court but for an honest mistake.

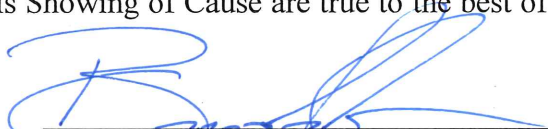
16. Granting Defendants' Motion would not do justice and would unfairly prejudice Plaintiff's interests.

WHEREFORE, Plaintiff respectfully requests this Court's Order showing that Plaintiff has demonstrated cause why Defendants' Motion to Dismiss should not be granted and for such other and further orders and relief as this Court deems just and proper.

VERIFICATION


STATE OF MISSOURI)
) ss.
COUNTY OF GREENE)

I, Bryan D. Fisher, counsel for Plaintiff in the above-captioned matter, do hereby state and verify that the statements made in this Showing of Cause are true to the best of my personal knowledge and belief.

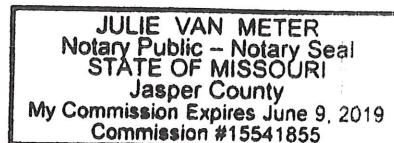


Bryan D. Fisher

Subscribed and sworn to before me this 8th day of June, 2018.



Julie Van Meter, Notary Public



NEALE & NEWMAN, L.L.P.

By: /s/ Bryan D. Fisher
Bryan D. Fisher, #65904

1949 E. Sunshine, Ste. 1-130
P.O. Box 10327
Springfield, MO 65808-0327
Telephone: (417) 882-9090
Facsimile: (417) 882-2529
Email: bfisher@nnlaw.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served electronically to those parties who have entered an appearance in the Court's Electronic Court Filing (ECF) System and conventionally, via first-class mail, postage prepaid, to those parties who have requested notice but are not participating in the ECF System, on this 8th day of June, 2018.

NEALE & NEWMAN, L.L.P.

By: /s/ Bryan D. Fisher
Bryan D. Fisher, #65904